

STATEMENT OF SENATOR JOHN McCAIN

CHAIRMAN, SENATE COMMITTEE ON
COMMERCE, SCIENCE AND TRANSPORTATION

FULL COMMITTEE HEARING
ON THE TRANSFER OF SATELLITE TECHNOLOGY TO CHINA

September 17, 1998

I would like to thank our distinguished witnesses for appearing before the Commerce Committee today to discuss the problems which have come to light in the past several months related to transfers of satellite and missile technology to China. Our first witness this morning will be the distinguished Congressman Dave Weldon of Florida, who will focus on the United States space infrastructure, as problems there provide incentives for satellite manufacturers to launch abroad. Following his remarks, we will have two panels. The first panel consists of representatives from the three federal agencies most closely involved in these issues, the departments of State, Defense and Commerce. The second panel includes representatives from the GAO, former Administration and agency personnel. I thank all of them for taking time from their busy schedules to be with us today.

It is clear that the export of satellite technology to foreign countries, including China, requires a balancing of both national security and commercial interests. Particularly when considering exports involving countries such as China, which may have foreign policy interests that sometimes run counter to our own, it is critical that safeguards are in place to assure that national security is not sacrificed by the otherwise legitimate pursuit of trade.

I am deeply concerned that there is an appearance of impropriety in the decision to change the jurisdiction for approval of satellite exports from the Department of State to the Department of Commerce. It is clear that this was done to ensure more rapid approval of exports, without the checks inherent in the State Department's licensing process, and so that the export of satellites would not be subject to sanctions against China. Was this decision the result of a rational balancing between national security and free trade considerations? Or was it a result of campaign contributions made by individuals who may or may not be tied to the Chinese government? I am also concerned about legal, but extremely aggressive lobbying of pertinent federal agencies by industry for a favorable resolution of the licensing issue.

Successful balancing between free trade and national security demands the highest level of confidence by Congress and the public in the integrity of the decision

makers. We must have confidence that the decisions made are in the best interest of the country. When the decision makers are cloaked in the shadows of impropriety, we lose confidence. When I see memos such as this one (MEMO RE WHITE HOUSE ACTIVITIES), advertising how favors such as inclusion in Department of Commerce trade missions can be bought for a campaign contribution, I can't help but wonder whether the same agency can be trusted to make responsible decisions regarding national security.

Earlier this year, in January 1998, the Commerce Department moved forward to approve an export license for Chinasat8, a commercial satellite sold to China. This was done notwithstanding that the applicant company was, and remains, under investigation by the Department of Justice for alleged unlicensed and illegal exports of satellite technology to China, and notwithstanding objections raised by the Justice Department.

The Department of Justice raised concerns that prosecution of the company could be negatively impacted by approval of the waiver and license. If the investigation results in criminal indictments and convictions, among other penalties, the company would not be permitted to export for a period of time. The license was approved prior to completion of the investigation, apparently because the company involved, Loral, would have suffered severe financial consequences had the decision been postponed. The result of the Administration's action is that the company continues to export, notwithstanding the fact that it may have already broken the law.

Again, was that decision made as a result of an objective balancing of national security versus free trade, or did the campaign contributions by the CEO of Loral influence the outcome? Why should Chinese and industry imposed deadlines force oversight agencies to rush decisions that prudence dictates may require more time?

Relaxation of exports of technology, including satellites, began during the Reagan Administration and was continued by the Bush Administration. During both of those administrations, primary control over the export approval process laid with the State Department. Then-Senator Gore was a vocal critic of the Bush Administration for granting waivers for the launch of U.S. missiles aboard Chinese rockets. Nevertheless, President Clinton not only continued to grant more of the same type of waivers, but expanded upon the approval of exports of satellites and approval of launches, finally vesting the Department of Commerce, an agency much more well known for acting on political considerations, with total jurisdiction for licensing all commercial satellite exports. The effect of this transfer has been to remove commercial satellites from inclusion in sanctions requirements and to permit the export of commercial satellites with less oversight from those vested with safeguarding our national security.

I emphasize less oversight, as Administration documents clearly demonstrate a proclivity to minimize the State, Defense, and Congressional roles in the licensing process. Administration arguments that security concerns are protected through

Executive Order 12981 are suspect. As one NSC memo pointed out, E.O.12981 merely provides for dissenting agencies to appeal to the White House. The Department of Defense, however, was denied authority to veto an export. I want to focus on how and why that transfer of jurisdiction occurred.

There is no stronger free trade advocate than I. I have also supported Favored Nation status for China. However, allegations reported in the press over the past few months regarding unlicensed and unapproved transfers of technical information to China, as well as information regarding China's transfer of missile technology to other countries, warrant further consideration and investigation to assure that the proper balance between free trade and national security has been struck.

The purpose of this hearing today is not to duplicate the efforts of other committees investigating the details of alleged proliferation of weapons, nor the details of alleged illegal technology transfers. We are here today to review the process by which the balance between trade and national security has been struck and to consider whether the decisions have been made for objective, supportable reasons, or whether improper influences, including political contributions, have had an undue influence in the process.

How do we move forward to assure the freest trade possible without jeopardizing national security? How do we assure ourselves and the American public that the best interests of the country and its defense are kept foremost in the minds of the government officials making these decisions? We are here today to hear the opinions and perspectives of both the Administration and others who have considered the issues.

Again, I thank the witnesses for being here today.